

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY DIAZ,

Plaintiff,

v.

KILOLO KIJAKAZI,  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. 1:21-cv-00447-AWI-HBK

ORDER GRANTING PARTIES' JOINT  
MOTION TO REMAND UNDER SENTENCE  
FOUR OF 42 U.S.C. § 405(g), REVERSING  
FINAL DECISION AND REMANDING  
CASE

(Doc. No. 16)

Pending before the Court is the Parties' Joint Motion to Remand filed June 17, 2022. (Doc. No. 16). Plaintiff Anthony Diaz and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision. *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney's fees under the Equal Access to Justice Act and calculating deadline using date of final judgment). The *Melkonyan* Court recognized 42 U.S.C. § 405(g) contemplates only two types of remand – sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a

1 judgment affirming, modifying, or reversing the decision of the Secretary, with or without  
2 resetting the cause for a rehearing.” *Id.* at 98 (other citations omitted).

3 The Court grants the Parties’ motion to remand under sentence four and reverses the  
4 Commissioner’s final decision. On remand, the prior ALJ decision will be vacated, and the  
5 agency will issue a new decision.

6 Accordingly, IT IS HEREBY **ORDERED** that:

- 7 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court grants the joint motion to  
8 remand (Doc. No. 16) and REVERSES the Commissioner’s decision;
- 9 2. This case is REMANDED to the Commissioner of Social Security for further  
10 proceedings consistent with this Order;
- 11 3. An application for attorney fees may be filed by separate motion and
- 12 4. The Clerk shall enter judgment in favor of Plaintiff, terminate any pending motions and  
13 deadlines, and close this case.

14 IT IS SO ORDERED.

15 Dated: July 11, 2022

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17 SENIOR DISTRICT JUDGE  
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